

3:03CR112-3-MU

Respondent.

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By the instant Motion, Petitioner asks this Court to direct the Government to respond to his Motion to Amend before he should be required to respond to the Government's Motion for Summary Judgment. However, the Court has reviewed the record and the docket in this case and there is no record of a motion to amend. There is no indication that Petitioner ever filed such a motion in this Court. Furthermore, the Petition is advised that Rule 15 of the Federal Rules of Civil Procedure provides, "A party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served Otherwise a party may amend the party's pleading only be leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires." Here, a responsive pleading has been filed in this Court since October 12, 2006. Therefore, Petitioner should not assume that any motion to amend would granted as a matter of course.

The Court has no record of Petitioner filing a Motion to Amend on October 26, 2006. As such, the instant motion is denied and Petitioner is directed to file a response to the Government's Motion for Summary Judgment as outlined in this Court's previous Order granting Petitioner a second extension of time (Document No. 15.)

ORDER

THEREFORE, IT IS HEREBY ORDERED that:

1. Petitioner's Motion (Document No. 16) is DENIED.
2. The Clerk is directed to send Petitioner a current docket sheet along with a copy of this Order.
3. Petitioner is directed to file a response to the Government's Motion for Summary Judgment as outlined in this Court's previous Order granting Petitioner a second extension

of time (Document No. 15.)

SO ORDERED.

Signed: December 1, 2006

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

